

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1633

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES FRANKLIN (Sponsor), SOLON, MUNTZEL, REMOLE,  
CURTMAN, ENGLISH, MILLER, RHOADS, PIKE, MCGAUGH AND SPENCER (Co-sponsors).

5377H.01P

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 34.042, RSMo, and to enact in lieu thereof two new sections relating to reverse auctions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 34.042, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 34.042 and 34.049, to read as follows:

34.042. 1. When the commissioner of administration determines that the use of competitive bidding is either not practicable or not advantageous to the state, supplies may be procured by competitive proposals. The commissioner shall state the reasons for such determination, and a report containing those reasons shall be maintained with the vouchers or files pertaining to such purchases. All purchases in excess of five thousand dollars to be made under this section shall be based on competitive proposals.

2. On any purchase where the estimated expenditure shall be twenty-five thousand dollars or over, the commissioner of administration shall:

(1) Advertise for proposals in at least two daily newspapers of general circulation in such places as are most likely to reach prospective offerors and may advertise in at least two weekly minority newspapers and may provide such information through an electronic medium available to the general public at least five days before proposals for such purchases are to be opened. Other methods of advertisement, however, may be adopted by the commissioner of administration when such other methods are deemed more advantageous for the supplies to be purchased;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (2) Post notice of the proposed purchase; and

17 (3) Solicit proposals by mail or other reasonable method generally available to the public  
18 from prospective offerors. All proposals for such supplies shall be mailed or delivered to the  
19 office of the commissioner of administration so as to reach such office before the time set for  
20 opening proposals. Proposals shall be opened in a manner to avoid disclosure of contents to  
21 competing offerors during the process of negotiation. **The provisions of this subdivision shall**  
22 **not apply to the reverse auctions authorized under section 34.049.**

23 3. The contract shall be let to the lowest and best offeror as determined by the evaluation  
24 criteria established in the request for proposal and any subsequent negotiations conducted  
25 pursuant to this subsection. In determining the lowest and best offeror, as provided in the request  
26 for proposals and under rules promulgated by the commissioner of administration, negotiations  
27 may be conducted with responsible offerors who submit proposals selected by the commissioner  
28 of administration on the basis of reasonable criteria for the purpose of clarifying and assuring full  
29 understanding of and responsiveness to the solicitation requirements. Those offerors shall be  
30 accorded fair and equal treatment with respect to any opportunity for negotiation and subsequent  
31 revision of proposals. Revisions may be permitted after submission and before award for the  
32 purpose of obtaining best and final offers. In conducting negotiations there shall be no disclosure  
33 of any information derived from proposals submitted by competing offerors. The commissioner  
34 of administration shall have the right to reject any or all proposals and advertise for new  
35 proposals or purchase the required supplies on the open market if they can be so purchased at a  
36 better price.

37 4. The commissioner shall make available, upon request, to any members of the general  
38 assembly, information pertaining to competitive proposals, including the names of bidders and  
39 the amount of each bidder's offering for each contract.

**34.049. 1. The commissioner of administration shall be authorized to hold reverse**  
2 **auctions for the purchase of specific commodities.**

3 **2. Prior to the commencement of bidding, all criteria of a bid must be established**  
4 **and any vendor participating must meet all the requirements at the time of bidding.**

5 **3. Participating vendors shall be able to see the best price offered at all times during**  
6 **the reverse auction.**

7 **4. The use of reverse auctions shall be limited to purchases of large quantities of**  
8 **highly standardized, readily available commodities whose selection depends solely on price**  
9 **and obtainability from a reasonable number of qualified competitors.**

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